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Sadler, Breen, Morasch & Colby, ps 422 W. Riverside Ave, Suite 424 Spokane, WA 99201				
EXAMINER				
NASH, LASHANYA RENJEE				
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2453				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/687,210

Applicant(s)

HUBBARD ET AL.

Examiner

LASHANYA R. NASH

Art Unit

2453

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 3/4/04, 3/22/04, 7/11/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This Office action is in response to the papers filed 16 October 2003. Claims 1-28 are presented for further consideration.

Information Disclosure Statement

The Information Disclosure Statements submitted on 4 March 2003, 22 March 2004 and 11 July 2008 have been considered by the Examiner.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 26-28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 26 refers to a software agent. The claim is directed to software per se, as the specification provides intrinsic evidence that the aforementioned software agent (i.e. client agent) can be implemented solely as program modules (specification, page 13). Therefore, claim 26 and subsequent claim 27 are considered non-statutory under 35 USC §101.

Claim 28 refers to a computer program. The claim is directed to the program itself, and not an article of manufacture that is structurally and functionally interconnected with the program in a manner which enables the program to act as a computer component and realize functionality. Therefore, it is considered non-statutory under 35 USC §101.

In order to expedite prosecution, prior art rejections are applied to claims 26-28 as set forth below in the Office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (US Patent 6,611,686) as applied to claims above in view of Twining (US Patent 6,222,449), hereinafter referred to as Smith and Twining as set forth below in the Office action.

In reference to claims 1, 18 and 28 Smith discloses a tracking control and logistics system [claim 1], method [claim 18] (Figure 4) and computer program (i.e. server program; column 13, lines 27-30) [claim 28] employing remotely located sensors via a network (abstract). Smith further discloses:

- A distributed processing system having sensor based data collection (Figure 3), comprising:
 - a server system coupled to a network (i.e. server; Figure 3-item 104), wherein the network is configurable for of coupling to distributed devices (i.e. monitoring devices; Figure 3-items 10) for processing workloads for the distributed processing system (column 12, lines 44-55);
 - one or more remote distributed devices (RDDs), (i.e.) selected from within the distributed devices and accessible to the server system in response to an incentive provided by the server system (column 13, lines 12-27) each of the RDDs having an input/output (I/O) port for coupling at least one sensor generating data corresponding to the RDDs (i.e. input ports of monitoring device connected to sensors; column 6, lines 60-column 7, line 4; column 10, lines 20-28), wherein the data includes sensor identification (ID) data identifying the sensor's corresponding type (i.e. monitoring device identification number; column 13, lines 35-38);
 - a software agent (i.e. software for monitoring device; column 8, lines 48-52) operating within each of the RDDs for sending location data (L-data) corresponding to a location of the RDD (i.e. location data of monitoring device; column 9, lines 61-65), the data, and corresponding sensor ID data to the server system in response to a received read sensor request (i.e. monitoring devices sends information in response to command/request; column 13, lines 35-40);

- a sensor database (Figure 3-item 106; column 12, lines 44-55) coupled to the server system for storing L-data, E-data and corresponding sensor ID data (i.e. updated monitoring device information stored at database; column 13, lines 40-42); and
- a software program executable by the server system (i.e. server program; column 13, lines 27-30) for configuring one or more sensor based data collection systems in response to user requests using the L-data and corresponding sensor ID data in the sensor database (column 13, lines 30-45).

Smith fails to expressly disclose that the sensors include at least one environmental sensor to generate environmental data. Nonetheless, this was a well-known feature in the art at the time of the invention as further evidenced by Twining. Therefore, it would have been an obvious for one of ordinary skill in the art to accordingly modify the system of Smith.

In an analogous art, Twining discloses a system for remotely detecting environmental conditions (abstract). Twining discloses a remote unit with environmental sensors for generating environmental data (column 1, lines 64-column 2, line 11). One of ordinary skill in the art would have been so motivated to accordingly modify the system of Smith so as to accurately measure and record relevant information regarding atmospheric conditions (i.e. temperature, pressure) at a specified location (Twining; column 1, lines 49-60).

In reference to claim 25, Smith discloses a tracking control and logistics server in communication with remotely located sensors via a network (abstract). Smith further discloses:

- A server system (i.e. server; Figure 3-item 104) coupled to a network, wherein the network is configurable for of coupling to one or more remote distributed devices (RDDs) (i.e. monitoring devices; Figure 3-items 10), each of the RDDs having at least one input/output (I/O) port for coupling a location sensor (L-sensor) (i.e. input ports of monitoring device connected to sensors; column 6, lines 60-column 7, line 4; column 10, lines 20-28) for generating location data (L-data) corresponding to a location of the RDD (i.e. location data of monitoring device; column 9, lines 61-65), wherein the data includes sensor ID data identifying the sensor's corresponding type comprising (i.e. monitoring device identification number; column 13, lines 35-38):
- a sensor database (Figure 3-item 106; column 12, lines 44-55) coupled to the server system for storing L-data, E-data and corresponding sensor ID data(i.e. updated monitoring device information stored at database; column 13, lines 40-42); and
- a software program executable by the server system (i.e. server program; column 13, lines 27-30) for configuring one or more sensor based data collection systems in response to user requests using the L-data and corresponding sensor ID data in the sensor database (column 13, lines 30-45).

Smith fails to expressly disclose that the sensors include at least one environmental sensor to generate environmental data. Nonetheless, this was a well-known feature in the art at the time of the invention as further evidenced by Twining. Therefore, it would have been an obvious for one of ordinary skill in the art to accordingly modify the system of Smith.

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In reference to claim 26, Smith discloses a remotely located device with sensors connected via a network (abstract). Smith further discloses:

- A software agent (i.e. software for monitoring device; column 8, lines 48-52) executable within a remote distributed device (RDD) (monitoring devices; Figure 3-items 10) coupled to a server system (Figure 3-item 104) through a network comprising a program of instructions for implementing the steps of:
- receiving a read sensor command from the server system; reading location data (L-data) corresponding to a location of the RDD in response to the read sensor command (i.e. location data of monitoring device; column 9, lines 61-65);

wherein the data includes sensor identification (ID) data identifying the sensor's corresponding type (i.e. monitoring device identification number; column 13, lines 35-38); and sending corresponding sensor ID data and L-data to the server system (i.e. monitoring devices sends information in response to command/request; column 13, lines 35-40).

Smith fails to expressly disclose that the sensors include at least one environmental sensor to generate environmental data. Nonetheless, this was a well-known feature in the art at the time of the invention as further evidenced by Twining. Therefore, it would have been an obvious for one of ordinary skill in the art to accordingly modify the system of Smith.

In an analogous art, Twining discloses a system for remotely detecting environmental conditions (abstract). Twining discloses a remote unit with environmental sensors for generating environmental data (column 1, lines 64-column 2, line 11). One of ordinary skill in the art would have been so motivated to accordingly modify the system of Smith so as to accurately measure and record relevant information regarding atmospheric conditions (i.e. temperature, pressure) at a specified location (Twining; column 1, lines 49-60).

In reference to claims 2 and 19, Smith discloses wherein L-data and E-data are communicated to a customer system subscribing to a sensor based data service hosted by the server system (column 13, lines 43-48).

In reference to claims 3 and 20, Twining discloses wherein a time the read sensor request is sent and a time corresponding E-data, L-data and sensor ID data are received in the server system are stored by the server system (column 2, lines 23-30).

In reference to claim 4, Smith discloses the distributed processing system of claim 1, wherein selected ones of the RDDs are wireless RDDs capable of mobile communication with the server system (i.e. wireless communication; column 5, lines 50-55; column 12, lines 27-30).

In reference to claim 5, Smith discloses the distributed processing system of claim 4, wherein a wireless RDD receives a request to move to a selected location to provide particular data collection for the server system (column 13, lines 17-22).

In reference to claim 6, Smith discloses the distributed processing system of claim 5, wherein the request to move the wireless RDD is in response to an emergency condition within or near the selected location (column 12, lines 56-67).

In reference to claim 7, Smith discloses the distributed processing system of claim 1, wherein an E-sensor and a location sensor (L-sensor) generating L data for an RDD are wireless sensors physically coupled and mobile and having a wireless connection to the RDD (column 10, lines 20-36; column 12, lines 27-30).

In reference to claim 8, Smith discloses the distributed processing system of claim 2, wherein the customer system subscribing to the sensor based data service hosted by the server system may directly request E-data from selected RDDs using L-data and corresponding sensor ID data in the sensor database (column 13, lines 17-27).

In reference to claim 9, Smith discloses the distributed processing system of claim 1 further comprising a distributed device performance capabilities database coupled to the server system, wherein L-data and E-data of RDDs are stored with performance capabilities data for the RDDs (column 12, lines 44-55).

In reference to claims 10 and 21, Smith discloses wherein the L-data is generated by an L-sensor coupled to each of the RDDs (column 9, lines 60-65).

In reference to claims 11 and 22, Smith discloses wherein the L-sensor is a global positioning system (GPS) sensor (column 9, lines 60-65).

In reference to claims 12 and 23, Smith discloses wherein L-data is determined from a mailing address of a facility housing a corresponding RDD (column 9, line 60-column 10, line 5).

In reference to claims 13 and 24, Smith discloses wherein L-data is determined from a network address of a corresponding RDD (column 9, line 60-column 10, line 5).

In reference to claim 14, Smith discloses wherein a first sensor based data collection system within the one or more sensor based data collection systems is dynamically reconfigured in response to a user analyzing previously received L-data and E-data for the first sensor based data collection system (column 10, lines 20-36).

In reference to claim 15, Smith discloses the distributed processing system of claim 1, wherein a user sends a sensor request to a particular RDD to add a first E-sensor in response to analyzing previously received L-data and E-data for a first sensor based data collection system within the one or more sensor based data collection systems (column 9, line 60-column 10, line 5).

In reference to claim 16, Twining discloses the distributed processing system of claim 1, wherein the E-sensor is selected from a class of sensors for quantifying any parameter that may be related to people, property or physical conditions in an area in proximity to and including an RDD (column 1, line 64-column 2, line 11).

In reference to claim 17, Smith discloses the distributed processing system of claim 1, wherein the E-sensor is selected from a set of sensors consisting of biometrics detection sensors, early warning network sensors, network intrusion sensors, radio frequency (RD) identification transmitters and receivers, and system security sensors

used to allow access to other services supplied by the RDD or to monitor general activity at the RDD (column 7, lines 1-13).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LASHANYA R. NASH whose telephone number is (571)272-3957. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/LaShanya R Nash/
Examiner, Art Unit 2453
October 8, 2008

/ARIO ETIENNE/
Supervisory Patent Examiner, Art Unit 2457